

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DARIN P. MINER, ) CASE NO. 4:11CV3142  
 )  
 Plaintiff, )  
 )  
 vs. ) MEMORANDUM AND ORDER  
 )  
 MICHAEL J. ASTRUE, )  
 Commissioner of Social Security, )  
 )  
 Defendant. )

This matter is before the Court on the Defendant's unopposed motion to remand (Filing No. 22).

The Commissioner requests an order reversing and remanding this case to the Appeals Council under sentence four of Section 205(g), 42 U.S.C. § 405(g). Counsel for the Commissioner argues that the remand is appropriate under the recent decision in *Petersen v. Astrue*, 633 F.3d 633 (8<sup>th</sup> Cir. 2011). On remand, the Council should remand the case to the Administrative Law Judge ("ALJ") for further development of the administrative record. Specifically, the ALJ must determine, with the assistance of medical expert testimony, whether Plaintiff's impairments meet or medically equal a listed impairment.

The Court acknowledges that the accompanying final judgment begins the appeal period that determines the 30-day period during which a timely application for attorney fees may be submitted under the Equal Access to Justice Act.

IT IS ORDERED:

1. The Defendant's motion to remand (Filing No. 22) is granted;
2. The decision of the Appeals Council is reversed;

3. This action is remanded to the Commissioner under sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Memorandum and Order; and
4. Judgment will be entered in a separate document.

DATED this 21<sup>st</sup> day of February, 2012.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge